

Message Text

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ORIGIN IO-13

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INFO AMEMBASSY PARIS IMMEDIATE

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E.O. 11652:N/A

TAGS: TGEN, AORG, IHO

SUBJECT: INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO):
HOST AGREEMENT

REFS: (A) STATE 278428 (B) NICE 114

1. AS FOLLOWUP TO REFTEL (A), REQUEST CONSULATE NICE
DELIVER FOLLOWING COMMENTS CONCERNING DRAFT HOST AGREEMENT
BETWEEN GOVERNMENT OF MONACO AND THE INTERNATIONAL HYDRO-
GRAPHIC ORGANIZATION TO REAR ADMIRAL G.S. RITCHIE,
PRESIDENT OF IHO DIRECTING COMMITTEE.

2. THE US GOVERNMENT BELIEVES THAT CHANGES IN ARTICLE 10
AND 12, WHICH DELINEATE THE PRIVILEGES AND IMMUNITIES OF
REPRESENTATIVES AND OFFICIALS, ARE NEEDED. IF IT IS FELT
THAT CHANGES IN THE DRAFT CANNOT BE MADE AT THIS TIME AND
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THAT THE DRAFT MUST BE SUBMITTED TO THE GENERAL CONFERENCE,
WE URGE THAT THE DRAFT BE SUBMITTED NOT FOR APPROVAL AT
THIS TIME, BUT ONLY FOR INFORMATION AND COMMENT BY THE
MEMBERS. IF THE DRAFT IS SUBMITTED TO THE MEMBERS IN ITS
PRESENT FORM FOR APPROVAL, WE WILL OFFER OUR PROPOSALS AS
AMENDMENTS IN THE COURSE OF THE CONFERENCE.

3. WE SUGGEST THE FOLLOWING CHANGES TO ARTICLE 10:

PARA IV - WE DO NOT BELIEVE THAT THE APPLICABILITY OF IMMUNITIES SHOULD BE DETERMINED BY WHETHER A REPRESENTATIVE "IS CAUGHT IN THE ACT OF COMMITTING AN OFFENSE." FIRST, IT IS UNCLEAR HOW THIS PHRASE SHOULD BE INTERPRETED. IS A PERSON "CAUGHT IN THE ACT" IF HE IS APPREHENDED NEAR THE SCENE OF THE CRIME AND IDENTIFIED BY TEN WITNESSES? BY TWO WITNESSES? SECOND, WE DO NOT BELIEVE THAT THE TIMING OF APPREHENSION OF PERPETRATORS OF CRIME SHOULD BE A CONDITION OF HIS IMMUNITY; IT OBVIOUSLY WOULD HAVE SUBSTANTIAL IMPACT ON THE MANNER IN WHICH THE CASE IS HANDLED, BUT WE SEE NO REASON IT SHOULD CHANGE THE OFFENDER'S LEGAL STATUS.

4. PARA V - WE DO NOT BELIEVE THAT A PERSON OF MONEGASQUE NATIONALITY WHO IS HIRED BY A REPRESENTATIVE OF A MEMBER STATE TO PERFORM FUNCTIONS RELATED TO PARTICIPATION IN THE ORGANIZATION SHOULD BE DENIED FUNCTIONAL IMMUNITY.

5. WE BELIEVE A CHANGE SHOULD BE MADE TO ARTICLE 12 TO INCLUDE NON-PERMANENT EMPLOYEES IN THE FUNCTIONAL IMMUNITY GRANTED BY SECTION (I)(A) OF THIS ARTICLE. AGREEMENTS WITH HOST COUNTRIES TYPICALLY EXTEND FUNCTIONAL IMMUNITY TO EMPLOYEES OF THE INTERNATIONAL ORGANIZATION WITHOUT DIFFERENTIATING BETWEEN PERMANENT AND TEMPORARY EMPLOYEES. IT WOULD SEEM AS IMPORTANT FOR TEMPORARY EMPLOYEES TO BE ABLE TO REFUSE TO TESTIFY IN COURT CONCERNING PAPERS, ETC. OF THE ORGANIZATION, AS IT IS FOR PERMANENT EMPLOYEES.

6. WE WOULD LIKE TO OFFER THE FOLLOWING COMMENTS ON THE UNCLASSIFIED

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PROPOSED SIDE LETTER FROM MONACO TO IHO:

(A) PARA 1 MIGHT BE READ TO ALLOW FRENCH AUTHORITIES TO ENTER THE HEADQUARTERS AREA OF THE IHO. THIS AREA MUST REMAIN INVIOABLE, FROM FRENCH AS WELL AS MONEGASQUE AUTHORITIES. THE INTENDED EFFECT OF THIS PARAGRAPH SHOULD BE CLARIFIED.

(B) PARA 4 SHOULD BE BROUGHT INTO LINE WITH ARTICLE 36(2) OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, WHICH CAREFULLY BALANCES THE RIGHTS OF DIPLOMATS AND THE RIGHTS OF HOST COUNTRIES AND HAS GAINED WIDESPREAD ACCEPTANCE.

(C) PARA 5 - WE WOULD APPRECIATE CLARIFICATION AS TO WHICH PERMANENT EMPLOYEES OF THE ORGANIZATION THIS WOULD INCLUDE. IF NONE, WE DO NOT SEE THE NEED FOR IT. ON THE OTHER HAND, WE DO SEE A NEED FOR ALL PERMANENT EMPLOYEES OF THE ORGANIZATION TO HAVE FUNCTIONAL IMMUNITY.

7. THE UNITED STATES URGES YOUR CAREFUL CONSIDERATION OF ABOVE SUGGESTIONS. WE BELIEVE THAT THE LEVEL OF PRIVILEGES AND IMMUNITIES PROVIDED IN THE DRAFT AGREEMENT IS

SOMEWHAT BELOW THAT LEVEL NEEDED FOR THE EFFICIENT
FUNCTIONING OF AN INTERNATIONAL ORGANIZATION AND ACCORDED

REPRESENTATIVE AND PERSONNEL OF OTHER ORGANIZATIONS.

8. OUR SUGGESTIONS ARE DESIGNED TO BRING IHO TO SUBSTAN-
Tially THE SAME LEVEL AS THAT OF OTHER INTERNATIONAL
ORGANIZATIONS.

9. AS PREVIOUSLY INDICATED, WE ARE PASSING THE FOREGOING
COMMENTS TO MISS E.S. WILMHURST, FOREIGN OFFICE LEGAL
ADVISER, THROUGH OUR EMBASSY IN LONDON.

10. FOR LONDON: WE WOULD APPRECIATE YOUR INFORMING MISS
E.S. WILMHURST ABOUT ABOVE US COMMENTS TO IHO ON HOST
AGREEMENT.

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